

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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|--|---|----------------------------|
| In the Matter of |) | |
| |) | |
| Rules and Regulations Implementing |) | CG Docket No. 04-53 |
| the Controlling the Assault of Non- |) | |
| Solicited Pornography and Marketing |) | |
| Act of 2003 |) | |

SUBMISSION FOR THE RECORD

My name is Joe Shields. I am a resident of Harris County, Texas. I recently became a victim of a violation of the Commission's rules stemming from this proceeding. As such I believe a submission of evidence of such violation is important to these proceedings. The violation was caused by a commentor **and petitioner** in this proceeding!

I signed up for cellular service with AT&T Wireless which was acquired by Cingular Wireless LLC a commentor and petitioner in this proceeding. It is that commentor and petitioner that violated the Commission's rules.

The Commission implemented rules under this proceeding codified at 47 CFR §64.3100. The regulation states in pertinent part:

- (a) No person or entity may initiate any mobile service commercial message, as those terms are defined in paragraph (c)(7) of this section, unless:
 - (1) That person or entity has the express prior authorization of the addressee;

In the Commission's Order released August 12, 2004, the Commission declined to grant wireless service providers an exemption from the above regulation requiring "express prior authorization":

“Accordingly, we decline to exempt CMRS providers from the requirement to obtain express prior authorization from their current subscribers before sending them any MSCM.” para. 71 of FCC 04-194

Despite being fully aware of the above regulation, as evidenced by the Cingular Wireless LLC Petition for Reconsideration, Cingular Wireless LLC on March 28th, 2005 at 15:14 p.m. transmitted a commercial text message to one of my cell phone numbers without having first obtained my express prior authorization.

The commercial text message was transmitted by Inphonic Inc. on behalf of Cingular Wireless LLC and encouraged me to purchase cellular telephone ring tones, logos and pictures by connecting to a web site via my cell phone web browser:

“Cingular: Cheer on your favorite NCAA during March Madness. Download your teams fight song or school logo. Std. chrgs apply. To stop msgs send STOP to 3711 From: sync.windcaster. 3:14pm 3/28/05” (sync.windcaster.com is a web site belonging to Inphonic Inc.)

I am including pictures of the above text message and the cell phone web browser display.

Apparently, Cingular Wireless LLC, a commentor **and petitioner** in this proceeding, has made up its own rules and has no intention of complying with the Commission’s regulations. I trust the Commission will be as concerned as I am that a petitioner in this proceeding is engaging in such unlawful cell phone telemarketing activity.

Respectfully submitted,

_____/s/_____
Joe Shields

Texas Government & Public Relations Spokesperson for Private Citizen Inc.
16822 Stardale Lane
Friendswood, Texas 77546

Courtesy Copies of the foregoing Submission for the Record have been mailed via first class mailing to the following persons:

Stanley T. Sigman
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Atlanta, Georgia 30342

David A. Steinberg
Inphonic Inc.
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Washington, DC 20007

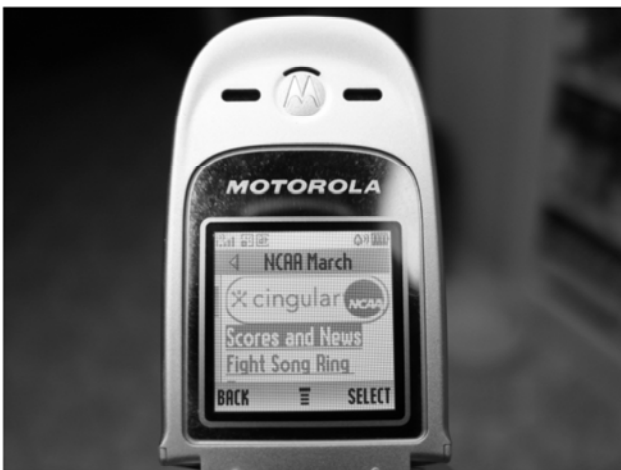
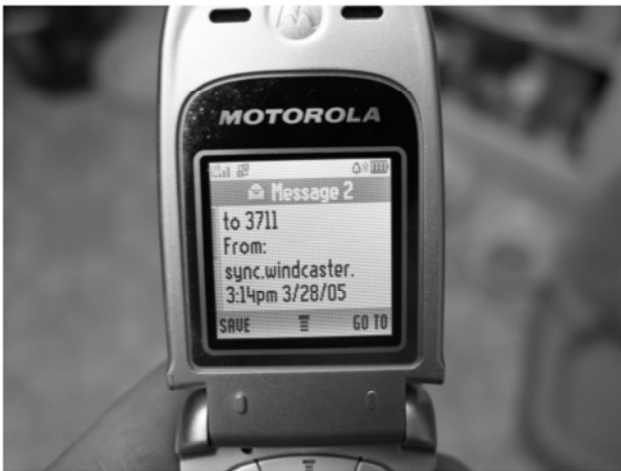
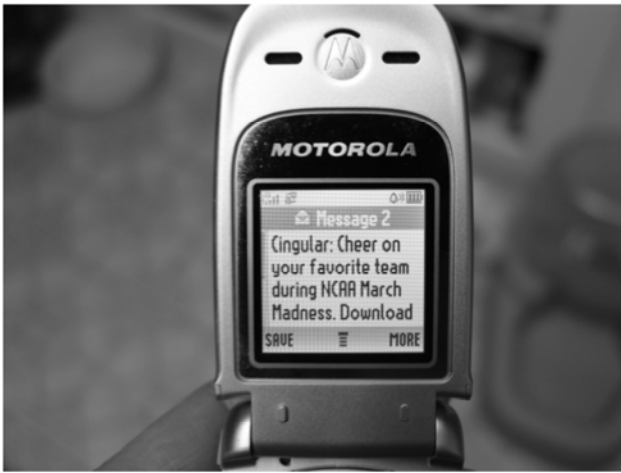
Martha Contee
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CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing Submission for the Record has been served, via facsimile to 404- 236- 5575, on J.R. Carbonell, Carol L. Tacker and M. Robert Sutherland, Counsel for Cingular Wireless LLC.

_____/s/
Joe Shields



Transcript

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